

Canadian Human Rights Tribunal Tribunal canadien des droits de la
personne

BETWEEN:

BERYL NKWAZI

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

CORRECTIONAL SERVICE CANADA

Respondent

APPLICATION FOR INTERESTED PARTY STATUS

MEMBER: Anne L. Mactavish

Nkwazi - Intervenor motion

[1] This is an application for Interested Party status brought on behalf of the following organizations:

1. Saskatchewan Coalition Against Racism,
2. Saskatchewan Action Committee on the Status of Women,
3. Immigrant Refugee and Visible Minority Women of Saskatchewan,
4. African Association of Regina,
5. Immigrant Women of Saskatchewan, Regina Chapter, and
6. Action Committee on Anti-Racism in Education and Employment Sectors.

[2] The application is supported by Ms. Nkwazi and is opposed by the Correctional Service of Canada.

[3] Applications for Interested Party status are governed by Rule 8 of the Canadian Human Rights Tribunal Rules of Procedure. The Rule provides that applicants must "specify the grounds invoked in support of the request for status and the extent of the desired participation in the inquiry."

[4] The application for Interested Party status indicates that the Applicant organizations have a direct interest in these proceedings as "... this case mirrors the experiences of many people". The application goes on to express the hope that this case may put issues of racism "on the table", and that the outcome of the case may bring about institutional and systemic change.

[5] Proceedings before the Canadian Human Rights Tribunal are to be conducted in an informal manner⁽¹⁾, and matters will not usually be disposed of on the basis of a lack of technical compliance with the Rules. In this case, however, there is nothing in the application that would allow me to determine what contribution the proposed interested parties could make to these proceedings, and whether the participation of the Applicants would assist me in fulfilling my mandate.

[6] The application advises that all of the Applicant groups will be represented at the hearing and will speak on specific issues. The Applicants do not indicate whether they wish to lead evidence, what that evidence would be, and how much time would be taken up with that evidence. I do not know if the Applicants intend to examine or cross-examine witnesses called by other parties. It is unclear whether the Applicants wish to participate as a single unit, or whether there is a risk of overlap and duplication as between the six different applicant organizations. Even if I were to interpret the application to mean that the Applicants were seeking only to make submissions at the commencement or conclusion of the hearing, there is no indication in the application as to which issues it is that the Applicants intend to address.

[7] As a result, I am unable to assess the extent by which this hearing would be prolonged by reason of the participation of the applicant organizations, and to weigh the potential prolongation of the hearing against the benefit to be derived from the participation of the Applicants. In these circumstances, I have no alternative at this juncture but to dismiss the application.

[8] Having dismissed the application as a result of the inadequacy of the information provided in the request for Interested Party status, I have not made any determination as to whether the Applicants could make a valuable contribution to this hearing, or whether any such benefit is outweighed by the additional time and expense that would inevitably be incurred by reason of their participation.

[9] I am mindful that the Canadian Human Rights Commission withdrew from this case just days before the hearing was originally scheduled to commence, leaving Ms. Nkwazi without support which she clearly anticipated having. It is unclear at this point as to whether Ms. Nkwazi will have legal representation at the hearing. In these circumstances it may be that the involvement of organizations such as the Applicants may be of assistance in ensuring that the issues raised by Ms. Nkwazi's complaint are fully canvassed before the Tribunal.

[10] As a result, I am dismissing the Applicants' request for Interested Party status without prejudice to their right to file an amended application that meets the requirements of Rule 8 of the Tribunal Rules. Given that the hearing in this matter is scheduled to commence on September 11, and in order to ensure that this matter is dealt with in a timely fashion, any such amended application must be filed by July 21. The Respondent shall have until August 1 to respond.

[11] In granting the Applicants leave to refile their application for Interested Party status, I would ask the Applicants to keep in mind that this proceeding is not a Royal Commission into racism in Canadian society as a whole, but an inquiry into the specific complaint filed by Ms. Nkwazi against her employer, the Correctional Service of Canada. As a result, the hearing in this matter will be confined to a consideration of the issues raised by Ms. Nkwazi's complaint.

Dated this 13th of July, 2000.

Anne L. Mactavish, Chairperson

1. Section 48.9, Canadian Human Rights Act